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December 17, 2014

Via Electronic Filing Only:

Senior Judge Frederick J. Scullin Jr.
United States District Judge
United States District Court
Northern District of New York
100 South Clinton Street
P.O. Box 7396
Syracuse, New York 13261-7396

Re: Upstate New York Engineers Health Fund, etc., et al v. Fiacco and Riley Construction, Inc., et al
USDC NDNY Civil Action No. 5:12-cv-01887 (FJS/ATB)

Dear Judge Scullin:

As this Court is aware, the plaintiffs filed a motion for summary judgment that is currently scheduled to be heard on January 9, 2015. On December 12, 2014, the undersigned sent a proposed stipulation to adjourn the motion to Jennifer Clark, Esq. To date I have not received a response. I am requesting to adjourn the motion date because I spent much of last week in depositions on another matter and will be in Atlanta for the remainder of this week on another matter. In that regard, I respectfully request that the Court adjourn the motion from January 9, 2015 to February 10, 2015.

Additionally, after consulting with my client, I would like to make a request to the Court in the hopes of resolving this matter. That is, I would respectfully request that this Court order the matter to be mediated by a Magistrate Judge. Throughout the course of the litigation the parties have attempted to negotiate and resolve the issues. The parties have made significant strides towards resolution and are not that far apart. I believe the aid of a mediator is just what this case needs and it would quickly resolve the matter short of additional litigation.

Should you have any questions or concerns, please feel free to contact the undersigned. Thank you.

Respectfully yours,



Jason B. Bailey

JBB/plb

pc: Jennifer Clark, Esq. [Via Electronic Filing Only]